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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/314,251	05/18/99	HODGES	A MEMTEC.063C1

020995 IM22/0309
KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

EXAMINER

NOGUEROLA, A

ART UNIT	PAPER NUMBER
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1743

DATE MAILED:

5
03/09/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/314,251

Applicant(s)
Hodges et al.

Examiner
Alex Noguera

Group Art Unit
1743



☒ Responsive to communication(s) filed on Jan 4, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION***Response to Amendment***

1. Applicant's amendment of January 04, 2000 does not render the application allowable. Applicant has mistaken the notch at the left end of Figure 6 for that at the right end (element 49). As can be seen in Figure 6, the notch, element 49, is in fluid communication with the sample cell. As indicated in the rejection of claim 1 'placing a notch in a lateral edge "wherein the notch is in communication with the cell and allows entry of the liquid sample into the cell" is known in the art as shown by Diebold et al.'

Priority

2. Applicant is requested to provide a certified copy of priority document PCT/AU96/0723 in order to confirm priority to the claimed invention. U.S. patent no. 5,997,817 may be relevant to a rejection of the claims if priority can not be confirmed. Additionally, applicant indicated on page 2 of the amendment that application 09/068,828 claims priority to PCT/AU96/0723 however, the declaration in file claims priority to PCT/AU96/0724. A copy of the first page of the declaration is provided with this action.

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Status of Rejections

3. The rejections of claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over Hanagan et al. in view of Diebold are maintained.

4. The rejection of claim 8 under 35 U.S.C. 103(a) as being unpatentable over Hanagan et al. in view of Diebold and further in view of Gunasungham is maintained.

Final Rejection

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Noguerola whose telephone number is (703)-305-5686.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden, can be reached at (703)-308-4037. The unofficial fax phone number, for example, for faxing a proposed amendment, for this Group is (703)-305-7719. The official fax phone number, for example, for faxing an amendment to be entered, for this Group is (703)-305-7718.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-0651.


Alex Noguerola

March 6, 2000


Jill Warden
Supervisory Patent Examiner
Technology Center 1700